

Issued by the
UNITED STATES DISTRICT COURT
 DISTRICT OF **DELAWARE**

JASON R. BENDER,
 Plaintiff,

v.

STEVEN ROBERTSON,
 Defendant.

SUBPOENA IN A CIVIL CASE - *DUCES TECUM*

Case Number: 06-00772 (GMS)

**TO: Records Custodian
 Delaware State Police Troop 7
 18006 Coastal Highway
 Lewes, DE 19958**

☐ **YOU ARE COMMANDED** to appear in the United States District Court at the place, date, and time specified below to testify in the above case.

PLACE OF TESTIMONY

COURTROOM

DATE AND TIME

☒ **YOU ARE COMMANDED** to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case.*

PLACE OF DEPOSITION

Smith, Katzenstein & Furlow LLP
 800 Delaware Avenue, 10th Floor
 Wilmington, DE 19801

DATE AND TIME

September 17, 2007 AT 10:00 A.M.*

☒ **YOU ARE COMMANDED** to produce and permit inspection and copying of the following documents or objects at the place, date, and time specified below (list documents or objects): **See Appendix attached.**

**Attendance at the deposition will be waived if the deponent produces the requested documents on or before September 14, 2007.*

PLACE

Smith, Katzenstein & Furlow LLP
 800 Delaware Avenue, 10th Floor
 Wilmington, DE 19801

DATE AND TIME

September 17, 2007 AT 10:00 A.M. *

☐ **YOU ARE COMMANDED** to permit inspection of the following premises at the date and time specified below.

PREMISES

DATE AND TIME

Any organization not a party to this suit that is subpoenaed for the taking of a deposition shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. Federal Rules of Civil Procedure, 30(b)(6).

ISSUING OFFICER'S SIGNATURE AND TITLE (INDICATE IF ATTORNEY FOR PLAINTIFF OR DEFENDANT)

Etta R. Wolfe (ID No. 4164)
 Attorney for Plaintiff



DATE

August 13, 2007

ISSUING OFFICER'S NAME, ADDRESS AND PHONE NUMBER

Smith, Katzenstein & Furlow LLP, 800 Delaware Avenue, P.O. Box 410, Wilmington, DE 19899
 (302) 652-8400

PROOF OF SERVICE

DATE	PLACE
SERVED <div style="text-align: center;">8/14/07</div>	<div style="text-align: center;">18006 COASTAL HWY LEWES, DE</div>

SERVED ON (Print Name)	MANNER OF SERVICE
TROOP 7	ACCEPTED BY <div style="text-align: center;">CPL LAYFIELD</div>

SERVED BY (Print Name)	TITLE
GRANVILLE MORRIS	Private Process Server

DECLARATION OF SERVER

I declare under penalty of perjury under the law of the State of Delaware that the foregoing information contained in the Proof of Service is true and correct.

Executed On: 8/14/07



SIGNATURE OF SERVER
BRANDYWINE PROCESS SERVERS, LTD.
P. O. BOX 1360
WILMINGTON, DE 19899-1360
(302) 475 - 2600

Superior Court Civil Rule 45, Parts C, D & E*

(c) Protection of Persons subject to Subpoenas

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing under burden or expense on a person subject to that subpoena. The Court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the Court. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the Court shall quash or modify the subpoena if it

- (i) fails to allow reasonable time for compliance,
- (ii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or
- (iii) subjects a person to undue burden.

(B) If a subpoena

- (i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or
- (ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the Court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the Court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(e) Contempt.

Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed contempt of court.

APPENDIX

DEFINITION

"Document" is used in the broadest sense of that term and includes, but is not limited to, any writing or record of any type or description, including laws, statutes, regulations, guidelines, directives, standards, manuals, agreements, contracts, correspondence, letters, telegrams, inter or intra-office communications (including electronic mail), memoranda, reports, studies, records, specifications, notes, notebooks, diaries, minutes, minutes of meetings, testimony, speeches, tabulations, analyses, plans, photocopies, graphs, descriptions, motion pictures, audio or video recordings of any type, publications, transcripts of telephone conversations, and any other retrievable data (whether encoded, taped, or coded electrostatically, electromagnetically, or otherwise), whether an original or copy (including, but not limited to carbon, handwritten, typewritten, microfilm, photostatic, and xerographic copies), including any non-identical copies (whether different from the original because of any alteration, notes, comments, or otherwise), together with any supplements or attachments thereto or enclosures therewith.

DOCUMENTS TO BE PRODUCED

1. All documents referring or relating to Delaware State Police policy, procedures, and/or training regarding the use of deadly force, vehicle pursuit and use of force in effecting arrests.
2. All documents referring or relating to the events of January 16, 2005 involving the plaintiff and the defendant.
3. All personnel files referring or relating to Steven Robertson, including but not limited to, any and all disciplinary, training and/or internal affairs' files.